

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

MERLINDA PEREA, and FRANCINE PUENTES,
Co-Personal Representatives of the
Wrongful Death Estate of JERRY PEREA and
ON BEHALF OF THE MINOR, BP

Plaintiffs,
-vs- NO: CIV 13-263 RB-RHS

CITY OF ALBUQUERQUE,
ALBUQUERQUE CITY POLICE,
APD OFFICER DAVID BACA and
APD OFFICER ANDREW JARAMILLO,

Defendants.

DEPOSITION OF RICARDO PADILLA

March 12, 2014
9:05 a.m.
Fourth Floor
One Civic Plaza, Northwest
Albuquerque, New Mexico

PURSUANT TO THE FEDERAL RULES OF CIVIL
PROCEDURE, this deposition was:

TAKEN BY: STEPHANIE M. GRIFFIN, ESQ.
ATTORNEY FOR DEFENDANTS

REPORTED BY: KENDRA D. TELLEZ
CCR #205
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<p>1 Q. All right. And how was the guy reacting 2 after he was tackled, as far as -- 3 A. Oh, he was fighting. 4 Q. Oh, okay. What do you mean by "fighting"? 5 A. He was very combative. One officer was 6 working his -- because they had him on the ground. 7 After they tackled him off the bike, they had him on 8 the ground. And one officer was working on the 9 upper part of his body and another officer was 10 working his legs. 11 Q. Okay. 12 A. And I couldn't hear what he was saying, 13 but I could hear the officers, "Calm down. Relax. 14 You know, make this easy on yourself," you know, 15 that type of stuff to get the guy so that they could 16 at least put the handcuffs on him. 17 Q. All right. And when you say that he was 18 fighting, did you ever see him swinging or kicking? 19 A. Yes. 20 Q. Okay. 21 A. Yes, both. 22 Q. Which one? Both? 23 A. Both. I saw him swinging. I didn't ever 24 see him really actually connect an actual punch 25 because he was swinging wildly, his arms were just</p>	<p>13 1 you recognize this to be a Taser? You had just seen 2 that tool before -- 3 A. Yeah. 4 Q. -- through movies or television? 5 A. Exactly. 6 Q. Were there any other tools or weapons that 7 you saw that the officers were using? 8 A. No. 9 Q. And after, let's say, you saw the first 10 Taser application where you saw what appeared to be 11 them using the prongs, how was the guy on the bike 12 reacting after that happened? 13 A. It looked like it had no effect on him. 14 Q. And what do you mean by that? 15 A. There again, basing off of what you see in 16 movies, you would think that you get hit by a Taser, 17 it's going to immobilize you or kind of stun you or 18 something like that. It didn't look like it phased 19 him at all. He continued to be violent. He 20 continued to fight even after being Tased. 21 Q. Okay. And how about the Taser that was 22 applied, what you observed to his back area, did 23 that appear to have any effect? 24 A. None. 25 Q. Was he still continuing the same thing?</p>
<p>14 1 swinging in a wild fashion. 2 Q. In the direction of the officers? 3 A. In the direction of the officers. And 4 then the other officer was trying to get his legs, 5 and he was kicking at that officer. 6 Q. Okay. And at any point did you see the 7 officers use any sort of weapon or tools? 8 A. They were -- they were Tasering him. 9 Q. Was it one or both officers, if you could 10 tell? 11 A. One officer. One officer was -- there was 12 an initial Taser. I guess it's, you know, one of 13 the Tasers that actually shoots out the prongs. 14 Q. Right. 15 A. Well, they shot him with one of those, 16 because that one kind of made a noise. And as they 17 had him on the ground, one of the officers had a 18 different type of Taser, handheld type of Taser that 19 he was applying directly to his back. 20 Q. Had you ever seen a Taser in operation 21 before this date? 22 A. Movies. 23 Q. Okay. 24 A. Other than that, no, I haven't seen it. 25 Q. And the reason I ask is mainly, how did</p>	<p>16 1 A. Continuing fighting, continuing resisting. 2 Q. And you remember hearing the officers 3 saying something to the effect for him to calm down. 4 Do you remember any other words that the officers 5 were saying? 6 A. No, I couldn't make out because it was -- 7 there was a lot of commotion, and he was screaming a 8 lot. 9 Q. Could you make out what the guy was 10 screaming, the guy that was being Tased? 11 A. No, I couldn't make out what he was 12 saying. A lot of it was just screams, yells. 13 Q. Did you see any objects in his hands? 14 A. He had a cross. 15 Q. What was he doing with this cross? 16 A. He was hitting -- he was swinging that at 17 the officers. 18 Q. Do you know if he ever struck any of the 19 officers with that? 20 A. I believe -- I can't say that I actually 21 saw somebody hit one of the officers, but I did 22 notice that one of the officers had a pretty good 23 size -- it wasn't a cut, but like a strawberry on 24 the top of his forehead. 25 Q. Okay. Did you ever notice if any of the</p>